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UNITED STATES CIVIL SERVICE COMMISSION
Office of the Executive Director
Interagency Advisory Group
1900 E Street, N.W.
Washington, D.C. 20415

Minutes of the IAG Adverse Action and Appeals

Committee May 19, 1978

Wilma Lehman of the Policy Analysis and Development Division, Bureau of Policies and Standards, chaired the meeting assisted by Barry Gorman and Paul Brown of the Commission's Bureau of Personnel Management Information Systems.

Proposed legislation of interest to the Committee

Mrs. Lehman mentioned two identical bills, H.R. 9219 and S. 2117 which would amend title 28 to provide an exclusive remedy against the United States where suits had been brought against Federal employees for acts of commission or omission. CSC has objected to an amendment to S.2117 which would amend title 5 by adding a new chapter 78. The amendment was, however, cleared by OMB. Hearings are currently being held on H.R. 9219. Mrs. Lehman urged members to follow the progress of these bills.

A member discussed amendments to the bills proposed by the Department of Justice which would provide that: (1) a person who won a tort claim could request the head of the agency involved to initiate an inquiry, possibly leading to administrative action, against the employee who caused the injury; (2) the agency head would be required to report what action had been taken as a result of the inquiry; (3) the citizen or employee could go to a different independent agency and request administrative review; and (4) he or she could finally take the case to the courts for final judicial review.

Possible program implications of collecting more statistical information in the areas of adverse actions, grievances, and appeals.

Mr. Gorman opened the discussion with several items concerning the collection of statistical information: (1) several groups of users both within the Commission and in other agencies including GAO, OMB, DOL, etc., are seeking various types of data; (2) these potential users of data are not constrained by the current availability of data or lack thereof; and (3) the users may not be knowledgeable about the program implications of obtaining statistics they seek on the data elements listed.

- 2 -

He asked the group to raise questions if the data elements requested do not appear to make sense and to give their reasons for not having a particular element collected. In this regard, cost would not be the only reason against collection -- equally valid would be the collection implications and others which might lead to the collection of essentially valueless data. The elements given the Committee concern adverse actions, grievances, and appeals. A larger group of data elements has been prepared, some of which can be generated from the present data collection systems. The Committee has been given only those which must be obtained specifically from the agencies.

Members had several concerns with the data elements suggested:

- One member said that his agency's Director of Personnel had said that each item which the Commission proposed to gather must be studied individually to determine the need for it, its validity, and its cost and program implications. Beyond this, what a particular user meant in asking for an item, i.e., how the request was justified, must be set forth, since if a valid need exists for such information not obtainable in one form, the agency may be able to provide usable information in another form. Other members agreed that the users must provide a justification of the need.
- A member asked if a value judgment has been placed on users' stated needs, and priorities set. Mr. Gorman stated that the users first had to show a rational connection between the information sought and their programs. Now these requests will be ranked, since not all the data can be collected. Having the program people in this and other committees explain the problems involved in collection will enable BPMIS' FPMIS requirements analysis to go back to the users for another look at their requests.
- Decentralized agencies will have problems collecting statistics. Only actions actually taken will be reflected on the form 50 and thus possible to collect; proposed actions will not be recorded. Mr. Gorman said in this regard that problems of collection should be addressed only after the question has been answered as to whether an item should be collected.
- Many of the elements have no utility at all for his agency, one member said. With the trouble involved in gathering statistics on them, he reiterated the need for more information as to the necessity for these elements.

- 3 -

- Any information gathered tends to generate the need for more information not previously requested, as one goes further back into the events leading up to an administrative action.
- A member asked if individuals representing the users could not be present at the meeting. Mr. Gorman noted that this was not practical in many instances since the users were scattered in several agencies.
- Several members asked whether reductions in rank and pay could be obtained separately from the present system and, if not, whether a new coding system for these actions in Supplement 296-31 in order to capture them separately would be desirable. Members believe that voluntary reassignments involving a reduction in rank should not be recorded as reductions in rank but rather as simple reassignments without stigma for the employees. If a differentiation between involuntary reduction in rank and reduction in pay was necessary to respond, as had been stated, to Congressional inquiries, including estimating the cost of certain legislative proposals, the information should be collected from the Form 50, by different action coding if necessary.

Mr. Brown noted that the title of the data elements package being considered by the Committee -- "Resolution Processes" was arrived at within the Commission to replace the original title "Adverse Actions", since it encompassed not only adverse actions but also discrimination complaints, negotiated and agency grievance systems, and statutory appeals including classification appeals.

Members agreed that they should go over the list of data elements again at the next regular meeting, and that before the meeting a package of the users' descriptions of their information needs and the rationale for their requests should be sent to them well in advance. Mr. Gorman said that this would be done.